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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,806	05/27/2005	Bernd Wenderoth	3557-43	4541
23117 7590 06/15/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER OGDEN JR, NECHOLUS	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,806	Applicant(s) WENDEROTH ET AL.	
	Examiner Necholus Ogden	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 0207.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Eaton et al (6,818,146) is withdrawn in view of applicant's amendment.
2. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as obvious over WO (02/055759) is withdrawn in view of applicant's amendment.
3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al (6,818,146) in view of Homma et al (6,680,138) is withdrawn in view of applicant's amendment.

Response to Arguments

4. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.
5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al (6,818,146) in view of WO (02/055630).

Eaton et al disclose a nontoxic fuel cell engine coolant comprising aqueous solutions of 1,3 propanediol having 50, 55 and 60% volume percent in water (col. 3, lines 10-30) and wherein said solution comprises 0.002 to 0.02% by weight of mercaptobenzothiazole, benzyltriazole in water (see claims 5 and 6). Eaton et al specifically teach that said conductivity is less than 50 in tables 6 and 7.

Eaton et al disclose all of the instantly required except the orthosilicic acid esters.

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WO '630 discloses orthosilicic acid esters in fuel cell engine coolant compositions having a conductivity of less than 50 us/cm (see abstract).

It would have been obvious to one of ordinary skill in the art to include the orthosilicic acid esters of WO '630 to the compositions of Eaton et al because WO '630 teaches that said orthosilicic acid esters aid in preventing short circuits and corrosion in said fuel cells (page 2, lines 24-28).

Therefore, it would have been obvious to one ordinary skill in the art, at the time the invention was made, to include an orthosilicic acid ester as suggested by WO '630 to the compositions of Eaton et al because only beneficial and or synergistic would have been obtained in the absence of a showing to the contrary.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO (02/055759 in view of WO (02/055630).

WO '759 discloses a nontoxic fuel cell engine coolant comprising aqueous solutions of 1,3 propanediol having 50, 55 and 60% volume percent in water (page 9, line 23-page 10, line 10 and page 11, lines 13-31) and wherein said solution comprises 0.002 to 0.02% by weight of mercaptobenzothiazole, benzyltriazole in water (see claims 6 and 7). WO '759 specifically teaches that said conductivity is less than 50 in tables 6 and 7

WO '759 does not disclose an orthosilicic acid ester.

WO '630 discloses orthosilicic acid esters in fuel cell engine coolant compositions having a conductivity of less than 50 us/cm (see abstract).

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It would have been obvious to one of ordinary skill in the art to include the orthosilicic acid esters of WO '630 to the compositions of WO '759 because WO '630 teaches that said orthosilicic acid esters aid in preventing short circuits and corrosion in said fuel cells (page 2, lines 24-28).

Therefore, it would have been obvious to one ordinary skill in the art, at the time the invention was made, to include an orthosilicic acid ester as suggested by WO '630 to the compositions of WO '759 because only beneficial and or synergistic would have been obtained in the absence of a showing to the contrary.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Necholus Ogden
Primary Examiner
Art Unit 1751

No
6-11-2007